

skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

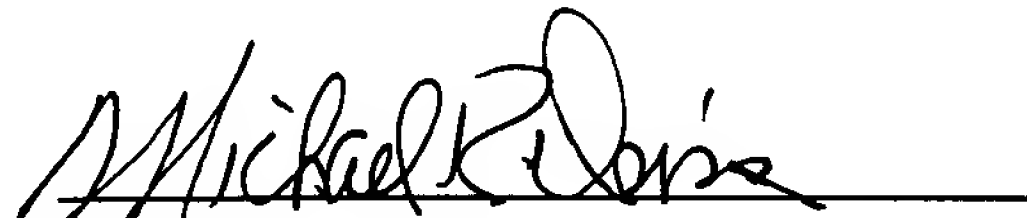
However, in order to establish a presumption of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings (MPEP 2142 and 2143). Even if the combination of the references teach every element of the claimed invention, a presumption of obviousness is not established without a motivation to combine the references (MPEP 2143.01, Section I). Furthermore, the mere fact that references **can** be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (MPEP 2143.01, Section III).

Applicants take the position that the Examiner has not satisfied these requirements for establishing a presumption of obviousness. Even if, as stated by the Examiner, all the claimed elements were known in the prior art, this is not sufficient to establish a presumption of obviousness, without a motivation to combine the claimed elements. The Examiner has failed to establish why one of ordinary skill in the art would have been motivated to combine the citrus pectin of Miskel et al., which the Examiner characterizes as a water-soluble dietary fiber, with the fill composition of the Tanner et al. reference. In the absence of this motivation, a presumption of obviousness has not been established.

Therefore, in view of the foregoing remarks, it is submitted that the rejection of the claims should be withdrawn, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Toshimitsu ISHIKAWA et al.

By: 
Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/pth
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
December 29, 2008